

EXHIBIT A

Clerk of the Superior Court
*** Electronically Filed ***
A. Marquez, Deputy
12/10/2021 4:20:59 PM
Filing ID 13707538

Person/Attorney Filing: Kendall D Steele
Mailing Address: 3300 North Central Avenue, Suite 2600
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[] Representing Self, Without an Attorney
(If Attorney) State Bar Number: 012367, Issuing State: AZ

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

Kristi Bergen, et al.

Plaintiff(s),

v.

Home Depot USA Inc

Defendant(s).

Case No. CV2021-018891

SUMMONS

To: Home Depot USA Inc

WARNING: THIS AN OFFICIAL DOCUMENT FROM THE COURT THAT AFFECTS YOUR RIGHTS. READ THIS SUMMONS CAREFULLY. IF YOU DO NOT UNDERSTAND IT, CONTACT AN ATTORNEY FOR LEGAL ADVICE.

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers were served on you with this Summons.
2. If you do not want a judgment taken against you without your input, you must file an Answer in writing with the Court, and you must pay the required filing fee. To file your Answer, take or send the papers to Clerk of the Superior Court, 201 W. Jefferson, Phoenix, Arizona 85003 or electronically file your Answer through one of Arizona's approved electronic filing systems at <http://www.azcourts.gov/efilinginformation>. Mail a copy of the Answer to the other party, the Plaintiff, at the address listed on the top of this Summons.
Note: If you do not file electronically you will not have electronic access to the documents in this case.
3. If this Summons and the other court papers were served on you within the State of Arizona, your Answer must be filed within TWENTY (20) CALENDAR DAYS from the date of service, not counting the day of service. If this Summons and the other court papers were served on you outside the State of Arizona, your Answer must be filed within THIRTY (30) CALENDAR DAYS from the date of service, not counting the day of service.

Requests for reasonable accommodation for persons with disabilities must be made to the court by parties at least 3 working days in advance of a scheduled court proceeding.

GIVEN under my hand and the Seal of the Superior Court of the State of Arizona in and for the County of MARICOPA

SIGNED AND SEALED this Date: *December 10, 2021*

JEFF FINE
Clerk of Superior Court

By: *ARASELI MARQUEZ*
Deputy Clerk



Requests for an interpreter for persons with limited English proficiency must be made to the division assigned to the case by the party needing the interpreter and/or translator or his/her counsel at least ten (10) judicial days in advance of a scheduled court proceeding.

If you would like legal advice from a lawyer, contact Lawyer Referral Service at 602-257-4434 or <https://maricopabar.org>. Sponsored by the Maricopa County Bar Association.

Clerk of the Superior Court
 *** Electronically Filed ***
 A. Marquez, Deputy
 12/10/2021 4:20:59 PM
 Filing ID 13707535

Kendall D. Steele, AZ State Bar No. 012367
JARDINE, BAKER, HICKMAN & HOUSTON, P.L.L.C.
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Attorney for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

KRISTI BERGEN AND CURTIS BERGEN,
 husband and wife,

Plaintiffs,

-vs-

HOME DEPOT USA, INC., a Delaware
 Corporation; JOHN DOES I-V; JANE DOES I-V;
 BLACK CORPORATIONS I-V; and WHITE
 PARTNERSHIPS I-V,

Defendants.

No. CV2021-018891

COMPLAINT

Premises Liability

Negligence

Respondeat Superior

(TIER 3)

Plaintiffs, Kristi and Curtis Bergen, by and through counsel undersigned, and for their Complaint against the Defendants allege as follows:

1. At all times relevant hereto, Plaintiffs were residents of Maricopa County, State of Arizona.
2. Defendant, Home Depot USA, Inc. ("Home Depot") is a Delaware corporation licensed to do business in the state of Arizona.
3. Defendants, John Does I-V, Jane Does I-V, Black Corporations I-V and White Partnerships I-V are fictitious Defendants, the true names or capacities, whether individual, corporate, or otherwise, are unknown to Plaintiff at this time, and Plaintiff therefore sues said Defendants by such fictitious names and will ask the leave of this Court to amend this Complaint to show their true names and capacities when the same have been ascertained.
4. Home Depot caused an event to occur in the Maricopa County, Arizona, which event is the subject matter out of which the claims alleged in this Complaint arise.

1 5. The amount in controversy in this matter exceeds the minimal jurisdictional amount required by
2 the jurisdiction.

3 6. Plaintiffs claim damages greater than the minimum required to qualify as a Tier 3 case pursuant
4 to Rule 26.2(c)(3), Arizona Rules of Civil Procedure.

5 7. The Court has jurisdiction over this matter and venue is appropriate.

6 **BASIS FOR COMPLAINT**

7 8. This incident occurred on January 20, 2021 at the Home Depot store #0456 located at 6838 East
8 Superstition Springs Boulevard, Mesa, AZ 85209. Plaintiff, Kristi Bergen ("Kristi") was an invitee of
9 the Home Depot store. Plaintiff Curtis Bergen was at the time and is Plaintiff Kristi Bergen's husband.

10 9. At the time of the incident in question, Kristi was bent over looking at mini-blinds. At the same
11 time, a Home Depot employee was leaning over Kristi checking a product price above her with a Home
12 Depot price scanning device when he lost control of it and dropped on the back of Kristi's head causing
13 serious injuries.

14 10. Home Depot, as the owner and operator of store #0456:

- 15 a. Failed to maintain the store in a reasonably safe condition;
- 16 b. Allowed an employee to dangerously scan a product price without asking Kristi to move or
17 warn her of his activities;
- 18 c. The Home Depot employee knew or should have known, that scanning a price while Kristi
19 was down below him created an unreasonable risk of harm to her;
- 20 d. Home Depot failed to warn Kristi of the risk of injury while scanning a price above her;
- 21 e. Home Depot failed to properly train its employees;
- 22 f. Home Depot failed to properly supervise its employees;
- 23 g. Home Depot failed to take necessary precautions to protect Kristi from injury;
- 24 h. Home Depot failed to otherwise exercise due care with respect to the matters alleged in this
25 complaint.

26 **COUNT ONE**
27 **(Premises Liability)**

28 11. Plaintiffs incorporate by reference all previous allegations as though specifically set forth herein.

1 12. Upon information and belief, Home Depot had direct control and/or authority over the premises
2 where Kristi was injured.

3 13. Home Depot owed a non-delegable duty of care to use reasonable care to maintain its premises
4 in a safe condition and to protect Kristi from any danger on the property.

5 14. Home Depot was required to use reasonable care to warn of, safeguard or remedy an unreasonably
6 dangerous conditions of which it had notice, knew or should have known of or which it created.

7 15. Home Depot owed a duty of reasonable care to Kristi, to conduct reasonable inspections of the
8 premises for hazards, to warn Kristi of any such hazards, to operate in a way unlikely to cause hazards,
9 or to remedy any such hazards or warn of hazards, whether known or that it should have discovered.

10 16. Home Depot by and through its employees and/or agents, created the unreasonably dangerous
11 conditions.

12 17. Home Depot by and through its employees and/or agents, actually knew of the unreasonably
13 dangerous conditions in time to provide a remedy or warning.

14 18. The unreasonably dangerous conditions existed for a sufficient length of time that Home Depot
15 by and through its employees and/or agents, in the exercise of reasonable care should have known of
16 them.

17 19. Home Depot failed to exercise reasonable care to prevent and or warn under the circumstances.

18 20. Home Depot breached its duty of care to Kristi when it failed to provide a safe environment by
19 creating dangerous conditions on the property.

20 21. As a direct and proximate result of Home Depot negligent conduct, Kristi suffered severe and
21 permanent injuries.

22 **COUNT TWO**
23 **(Negligence)**

24 22. Plaintiffs incorporate by reference all previous allegations as though specifically set forth herein.

25 23. This incident occurred on January 26, 2021 at the business of Home Depot. Kristi was an invitee.

26 24. Home Depot owed a duty of due care to its invitees and, specifically to Kristi to conduct
27 reasonable inspection of the premises for hazards, to warn Kristi of any such hazards, to operate in a way
28

1 unlikely to cause hazards, and to remedy any such hazards, whether known or that it should have
2 discovered.

3 25. Home Depot, its agents and employees, and all other aforementioned, breached the duty of
4 reasonable care owed to Kristi.

5 26. The above-mentioned incident was caused by the careless, negligent, and unlawful acts and/or
6 omissions of Home Depot and their agent and employees, and all other aforementioned Defendants in
7 the control, operation and use of the premises and its surrounding area.

8 27. As a direct and proximate result of the carelessness, negligence and actions and/or omissions of
9 Home Depot, Kristi suffered injuries, some of which are permanent.

10 28. As a direct and proximate result of the careless, negligent and/or unlawful acts and omissions of
11 Home Depot, Plaintiff suffered physical pain, mental anguish, disability and suffering, and may continue
12 to suffer such physical pain, mental anguish, disability and suffering in the future.

13 29. As a direct and proximate result of the careless, negligent acts and omissions of Home Depot,
14 Plaintiff incurred medical expenses, and may incur additional medical expenses in the future as well as
15 general damages.

16 30. As a direct result of this incident, Plaintiff suffered severe and permanent physical and emotional
17 injuries as well as general damages.

18 **COUNT THREE**
19 **(Respondent Superior/Vicarious Liability)**

20 31. Plaintiff incorporates by reference all previous allegations as though specifically set forth herein.

21 32. Upon information and belief, Home Depot employees were authorized agents of Home Depot.

22 33. Upon information and belief, Home Depot's employees were acting within the course and scope
23 of their employment and/or agency with Home Depot at the time of the incident in question.

24 34. Home Depot is vicariously liable for the negligent, reckless and/or unlawful acts of its employees
25 and/or authorized agents.

26 35. As a direct and proximate result of the Home Depot's negligent conduct, Kristi suffered severe
27 and permanent injuries and damages.
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36. As a direct and proximate result of the negligent acts/omissions of any and all Defendants as alleged herein, Kristi sustained the following damages and injuries to be established by proof at trial:

- a. Severe and personal injuries which have caused and may continue to cause her pain, suffering, distress, diminished physical and mental capacity, mental and emotional anguish and anxiety, and a substantial decrease in her quality of life;
- b. Expenses for medical care, past and future;
- c. Disability for an indefinite period of time if not permanently; and,
- d. For interest accruing on all damages until paid.

WHEREFORE, Plaintiffs pray for judgment against the Defendants, and each of them, as follows:

- A. For special and general damages for Plaintiffs in a fair, just and reasonable sum in excess of the minimum jurisdictional limits of this Court;
- B. For present and future medical expenses incurred by Plaintiff Kristi Bergen, in a sum according to proof;
- C. For Plaintiff Curtis Bergen's loss of consortium and loss of income resulting from the injury to Kristi Bergen;
- D. For pre-judgment interest of Plaintiffs' liquidated damages;
- E. For Plaintiffs' costs incurred herein; and,
- F. For such other and further relief as the Court may deem just and proper.

DATED this 10th day of December, 2021.

JARDINE BAKER HICKMAN & HOUSTON, PLLC

By /s/ Kendall Steele
Kendall Steele
3300 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
Attorney for Plaintiffs

1 **ORIGINAL** of the foregoing e-filed
2 this 10th day of December, 2021, with:

3 Clerk of the Court
4 Maricopa County Superior Court

5 /s/Mandy Wyatt
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Kendall D. Steele, AZ State Bar No. 012367
JARDINE, BAKER, HICKMAN & HOUSTON, P.L.L.C.
3300 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
(602) 200-9777
(602) 200-9114 fax
e-mail: ksteele@jbhhlaw.com

Attorney for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

KRISTI BERGEN AND CURTIS BERGEN,
husband and wife,

Plaintiffs,

-vs-

HOME DEPOT USA, INC., a Delaware
Corporation; JOHN DOES I-V; JANE DOES I-V;
BLACK CORPORATIONS I-V; and WHITE
PARTNERSHIPS I-V,

Defendants.

No.

DEMAND FOR JURY TRIAL

(TIER 3)

Plaintiffs, through counsel undersigned, and pursuant to Rule 38, Ariz. R. Civ. P., hereby request
a trial by jury on all issues of the above-captioned matter.

DATED this 10th day of December, 2021.

JARDINE BAKER HICKMAN & HOUSTON, PLLC

By /s/ Kendall Steele
Kendall Steele
3300 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
Attorney for Plaintiffs

ORIGINAL of the foregoing e-filed
this 10th day of December, 2021, with:

Clerk of the Court
Maricopa County Superior Court

/s/Mandy Wyatt

Clerk of the Superior Court
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Person/Attorney Filing: Kendall D Steele
Mailing Address: 3300 North Central Avenue, Suite 2600
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[☐] Representing Self, Without an Attorney
(If Attorney) State Bar Number: 012367, Issuing State: AZ

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

Kristi Bergen, et al.
Plaintiff(s),

Case No. CV2021-018891

v.

Home Depot USA Inc
Defendant(s).

**CERTIFICATE OF
COMPULSORY ARBITRATION**

I certify that I am aware of the dollar limits and any other limitations set forth by the Local Rules of Practice for the Maricopa County Superior Court, and I further certify that this case IS NOT subject to compulsory arbitration, as provided by Rules 72 through 77 of the Arizona Rules of Civil Procedure.

RESPECTFULLY SUBMITTED this

By: Kendall D Steele /s/
Plaintiff/Attorney for Plaintiff

Liddy Legal Support Services

PO Box 2007, Phoenix, AZ 85001

63 E. Pennington St., #102, Tucson, AZ 85702

2700 Woodlands Village Blvd., #300-420, Flagstaff, AZ 86001

Phoenix 602-297-0676, Tucson 520-628-2824, Flagstaff 928-225-7737

Client Matter 12000.879

Account # 0207

Invoice # 27266

Liddy # 388672-1

CLERK OF THE
SUPERIOR COURT
FILED
C. O'NEILL, DEP

21 DEC 21 AM 9:47

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA****KRISTI BERGEN, et al.,****Plaintiff(s) / Petitioner(s),**

vs

HOME DEPOT USA INC,**CERTIFICATE OF SERVICE
BY PRIVATE PROCESS SERVER
Case No. CV2021-018891****Defendant(s) / Respondent(s).** **ORIGINAL****ENTITY/PERSON TO BE SERVED:** Home Depot USA, Inc. c/o Corporation Service Company, Statutory Agent**PLACE OF SERVICE:** 8825 N 23rd Ave., Suite 100, Phoenix, AZ, 85021**DATE OF SERVICE:** On the 16th day of December, 2021 at 11:55 AM County Maricopa☐

PERSONAL SERVICE

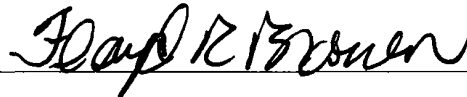
☒Left a copy with a person authorized to
accept service.☐At this usual place of abode, I left a copy
with a person of suitable age and discretion
residing therein.**Name of Person Served and Relationship/Title**

Served on Corporation Service Company, Statutory Agent, by serving Kelley

Springstead, Service of Process Coordinator.

on 12/15/2021 we received the following documents for service:

Summons | Complaint | Certificate of Compulsory Arbitration | and Demand for Jury Trial

Received from JARDINE BAKER HICKMAN & HOUSTON, P.L.L.C., (KENDALL D. STEELE #023367)**PROCESS SERVER:** Floyd R. Brown #8388**The undersigned states: That I am a certified private process server in the county of Maricopa and am an Officer of the Court.****SIGNATURE OF PROCESS SERVER:**Date: 12/19/2021

Item	Amount
Service of Process	\$16.00
Mileage	\$28.80
Doc. Prep Fee	\$10.00

Tax ID# 90-0533870I declare under penalty of perjury that the foregoing is true
and correct and was executed on this date.

Total \$54.80